

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

DAVID A. GAMBINO,

Plaintiff,

v.

FRANK HERSHBERGER, *et al.*,

Defendants.

Civil Action No. TDC-17-1701  
Consolidated with TDC-17-2311

**ORDER**

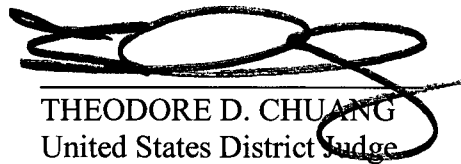
For the reasons stated in the accompanying Memorandum Opinion, it is hereby ORDERED that:

1. David A. Gambino's Motions for Appointment of Counsel, ECF Nos. 22 and 28, are DENIED WITHOUT PREJUDICE.
2. Gambino's Motions to Stay, ECF Nos. 23 and 29, are DENIED.
3. Gambino's Motion for Leave to Amend his Response to the Government's Motion to Dismiss the Complaint, or in the Alternative, for Summary Judgment, ECF No. 32, is GRANTED. The Court accepts Gambino's Amended Response.
4. The Motion to Seal filed by the United States and Federal Bureau of Prisons ("the Government"), ECF No. 20, is GRANTED IN PART AND DENIED IN PART. The Clerk shall SEAL only the Declaration of Tequilla McGahee and its attachments, ECF No. 19-2, the Declaration of Mohammed Moubarek, M.D. and its attachments, ECF No. 19-3, and the currently filed version of the Government's Memorandum of Law in Support of its Motion to Dismiss, ECF No. 19-1. Within **7 days** of the date of this Order, the Government shall file a version of ECF No. 19-1 with part II redacted, which will constitute the public version of that document.
5. The Government's Motion to Dismiss the Complaint, or in the Alternative, for Summary Judgment, ECF No. 19, is GRANTED.
6. Gambino's Federal Tort Claims Act ("FTCA") claims as they relate to medical malpractice and medical negligence are DISMISSED WITHOUT PREJUDICE.

7. Gambino's Americans with Disability Act claims, False Claims Act claims, and Sarbanes-Oxley Act claims are DISMISSED.
8. Summary judgment is GRANTED to the Government on Gambino's Religious Freedom Restoration Act claim and any Rehabilitation Act claim. The Rehabilitation Act claim is DISMISSED WITHOUT PREJUDICE.
9. Within **28 days** of the date of this Order, the Government shall file an Answer to the Privacy Act and remaining FTCA claims against it.
10. The Clerk shall SEND a copy of this Order and the accompanying Memorandum Opinion to Gambino.

By separate order, the Court will identify to Gambino the specific individual Defendants it deems to be remaining Defendants, and, upon confirmation by Gambino that he continues to seek to pursue claims against those Defendants, direct service on those Defendants by the United States Marshal. Those Defendants are required to file an Answer within **21 days** of service.

Date: March 20, 2019



THEODORE D. CHUANG  
United States District Judge